
	LOS LUNAS POLICE DEPARTMENT	
	ADMINISTRATION	NUMBER: ADM.05.01
	EFFECTIVE DATE: October 7, 2010	
	SUBJECT: Response to Resistance REVIEW DATE: February 10, 2017	
AMENDS/ SUPERSEDES:		NMSA:
NMMLEPSC STANDARDS: ADM.05.01-ADM.05.04		APPROVED BY CHIEF OF POLICE NAITHAN G. GURULE  Signature

I. STATEMENT OF PURPOSE

The use of force by a police officer is an extremely sensitive issue and requires careful study and understanding by every officer. This is especially true since the definitions of the use of force by police are based on the determination of reasonableness under the circumstances. Although the careful use of force is authorized by law, the use of unnecessary or unreasonable force is strictly prohibited and will not be tolerated. While clear boundaries of reasonableness can be defined for certain police situations, others must be interpreted for the particular set of circumstances involved. The purpose of this section is to provide each officer with policy guidance and direction with respect to the use of force in carrying out his duties.

II. POLICY

It is the policy of the Los Lunas Police Department (LLPD) that officers shall use only reasonable force necessary to effect lawful objectives in responding to perceived threats. (Added 07-24-2015)

III. DEFINITIONS

- A. Deadly Force - Force that is intended or known by the person using the force to cause, or in the manner of its use or its intended use, is capable of causing death or serious bodily injury.
- B. Reasonable Belief - A belief that would be held by a reasonable and prudent law enforcement officer in the same circumstances as the acting person.
- C. Reasonable Force - Use of the reasonable amount of force needed to achieve control over an incident or person.
- D. Serious Bodily Injury - Injury that creates a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of a bodily member or organ.
- E. Principal Officer - Any commissioned personnel who, under the color of law, have used deadly force which has, or reasonably could have, resulted in death or great bodily harm or, who under the color of law, has discharged a firearm which has or reasonably could have, resulted in physical injury.
- F. Objectively Reasonable - This term means that in determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of the threat or resistance presented by the subject, and the level of threat to the community. **(added 07-24-2015)**

IV. USE OF FORCE CASE LAW

- A. IT IS NOT EXPECTED THAT AN OFFICER WILL THINK ABOUT THIS POLICY IN ITS ENTIRETY AND ALL THE FACTORS LISTED WITHIN THIS POLICY PRIOR TO USING FORCE DURING AN ACTUAL EVENT, BUT RATHER THE OFFICER SHOULD HAVE A FIRM UNDERSTANDING OF THE UNITED STATES SUPREME COURT CASE TITLED GRAHAM V. CONNOR WHICH ESTABLISHED WHAT FACTORS SHOULD BE CONSIDERED PRIOR TO USING FORCE, LONG BEFORE THE OFFICER IS PLACED IN A POSITION TO USE FORCE. KNOWLEDGE IS KEY, AND IT IS THE DESIRE OF THIS AGENCY FOR EACH EMPLOYEE THAT IS AFFECTED BY THIS POLICY TO THOROUGHLY UNDERSTAND USE OF FORCE LAW AND THIS POLICY, SO THAT WHEN IT IS TIME TO USE FORCE AGAINST ANOTHER, THEY DO SO IN A MANNER THAT IS

CONSISTENT WITH THE LAW AND THIS POLICY, AND WITHOUT HESITATION IF NEEDED.

- B. The United States Supreme Court, in a case titled *Graham v. Connor*, sets forth the analytical model by which all use of force cases are reviewed. As required by *Graham*, an officer's use of force is assessed by examining the facts and circumstances known to the officer including a review of the following:
 - 1. The severity of the suspect's crimes;
 - 2. The immediacy of the threat posed by the suspect to the safety of the officers or others; and
 - 3. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.
- C. As used by *Graham*, "objectively reasonable" is much like the related concepts of reasonable suspicion and probable cause. Objective reasonableness requires more than an officer's *subjective* beliefs about a suspect and the level of threat that the suspect poses. Indeed, an officer cannot base a decision to use force on a "hunch," a "feeling," or some other unquantifiable belief. This is an *objective* test which means that the officer's good faith beliefs, for taking certain action, are irrelevant.
- D. Instead, an officer must be able to identify specific and articulable facts. Essentially, an officer must list the information that he or she observed, heard, or otherwise collected through reliable police channels and the source of that information. Sometimes just as important, an officer must identify unknowns and why this lack of information is important to an assessment of the suspect's threat level.
- E. Based on those specific and articulable facts, an officer can then use his or her training and experience to interpret the known information and reach a reasonable conclusion as to the level of threat posed by the suspect. Stated another way, the conclusion an officer draws about a suspect must be based on the known facts.
- F. This process does not deal with hard certainties, but with probabilities. The use of the 20/20 vision of hindsight to analyze an officer's use of force decision is prohibited. This is why the *Graham* test is called objective *reasonableness*, not objective *certainty*.

G. When applying any type of force in an objectively reasonable manner, an officer must first determine the specific facts and circumstances that are available to him/ her at the time about the particular case before him.

- The law understands that often time's officers are asked to make split second decisions, which are tense, uncertain and rapidly evolving. Personnel within this department should make themselves familiar with this policy and the law surrounding uses of force consistent with their training. SO TO CLARIFY, IT IS NOT EXPECTED THAT AN OFFICER WILL THINK ABOUT THIS POLICY IN ITS ENTIRETY AND ALL THE FACTORS LISTED WITHIN THIS POLICY PRIOR TO USING FORCE DURING AN ACTUAL EVENT, BUT RATHER THE OFFICER SHOULD HAVE A FIRM UNDERSTANDING OF THE UNITED STATES SUPREME COURT CASE TITLED GRAHAM V. CONNOR WHICH ESTABLISHED WHAT FACTORS SHOULD BE CONSIDERED PRIOR TO USING FORCE, LONG BEFORE THE OFFICER IS PLACED IN A POSITION TO USE FORCE. KNOWLEDGE IS KEY, AND IT IS THE DESIRE OF THIS AGENCY FOR EACH EMPLOYEE THAT IS AFFECTED BY THIS POLICY TO THOROUGHLY UNDERSTAND USE OF FORCE LAW AND THIS POLICY, SO THAT WHEN IT IS TIME TO USE FORCE AGAINST ANOTHER, THAT THEY DO SO IN A MANNER THAT IS CONSISTENT WITH THE LAW AND THIS POLICY, AND WITHOUT HESITATION IF NEEDED.

v. MANAGING RISK/ OFFICER CREATED JEOPARDY

- A. Officer created jeopardy occurs when an officer places himself/herself into a position that requires the officer to use force, and had the officer not placed himself/herself into that position or into a position of tactical disadvantage, the force required would not have been used or a less intrusive level of force could have been used
- B. Examples of officer created jeopardy include but are not limited to standing in front of a moving motor vehicle that is moving towards the officer, that is occupied by a suspect of a criminal act, when there was ample time to move out of the way, but yet the officer chose to stand his ground and fire into the vehicle striking the suspect and killing him. Another example of officer created jeopardy would be responding to an armed suicidal subject call at a residence and running into the residence to

confront the armed subject instead of trying to deescalate the situation through negotiations from a position of tactical advantage. Another example would be running up to a vehicle after a felony stop instead of conducting a felony stop. Another example would be an officer engaging in argumentative behavior with a subject so as to challenge the subject to a physical confrontation.

VI. MOVING FROM A SHOW OF FORCE TO A USE OF FORCE OR MOVING FROM ONE TYPE OF FORCE TO ANOTHER TYPE OF FORCE

- A. NOTHING IN THIS POLICY PREVENTS AN OFFICER FROM TRANSITIONING FROM ONE LEVEL OF FORCE (I.E. THE USE OF PEPPER SPRAY AS AN EXAMPLE) TO ANOTHER LEVEL OF FORCE (I.E. DEADLY FORCE) IF THE SITUATION DICTATES SUCH A TRANSITION AND IS OBJECTIVELY REASONABLE. There is no requirement that an officer "escalate" through all levels of force, from the least intrusive level of force to the most intrusive level of force, in order to reach the desired level of force for the particular situation.
- B. An officer may also be required to transition between a show of force to a use of force with the same or different weapon system in a very short time frame.
- C. Occasionally an officer will be confronted during an encounter by more than one adversary, by an adversary who has been trained to a skill level in combat that places the officer at a disadvantage, or the officer may be confronted by an individual that is considerably larger in size or stronger than the officer. Any of these situations can place the officer in a position of having a significant tactical disadvantage that may warrant the officer using a higher level of force than would have been necessary had one or more of these disparities not been present.

VII. GENERAL POLICY

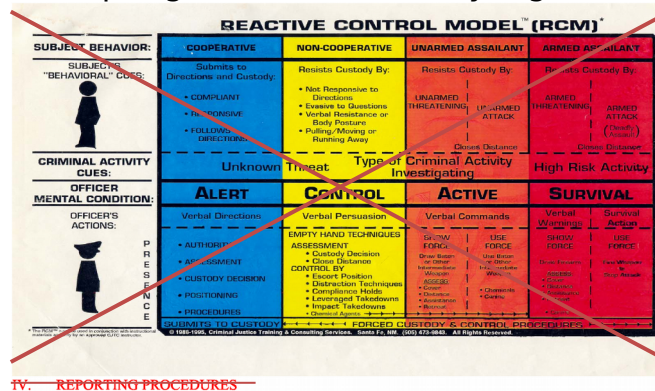
- A. Officers shall use only reasonable force necessary to effect lawful objectives in responding to perceived threats). Reasonable force may be used by an officer in the performance of duties, when:
 - 1. Necessary to preserve the peace, to prevent the commission of an offense or to prevent suicide or self-inflicted injury.

2. Making lawful arrests and searches, overcoming resistance to such arrests and searches, and preventing escapes from custody.
 3. In self-defense or defense of another against unlawful violence to a person or property.
 4. Preventing or interrupting an intrusion on or interference with the lawful possession of property.
- B. An officer may use reasonable force to overcome resistance to the lawful performance of duties, even though there is no immediate or apparent danger calling for self-defense. However, the officer must be acting within the scope of official authority. Every reasonable opportunity must be given to the person being arrested to comply. Force should be used only after all other means have failed to produce compliance.
- C. Before the application of reasonable force, officers should identify themselves as police officers and state their purpose to the offender and others present. This identification is not necessary if the officer reasonably believes his purpose and identity are already known or conditions exist which render it unfeasible to identify.
- D. There is no specific rule fitting all cases as to how much force and means may be used, each case must be decided in the light of its own facts and circumstances. Under no circumstances will the force used be greater than necessary and in no instance will deadly force be used except as stated in the Deadly Force section of this chapter.
- E. Officers will use only the force reasonably necessary to accomplish lawful objectives. Officers must exhaust every reasonable means of employing the least amount of force appropriate to the situation.
- F. The community expects and the Los Lunas Police Department requires that peace officers use only the force necessary to perform their duties. The level of force applied must reflect the totality of the circumstances surrounding the immediate situation. The officer need only select a level of force that is necessary and within the range of "objectively reasonable" options. Officer must rely on training, experience and assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate

the force option to be employed.

Factors to determine “objective reasonable” force options.

1. The severity of the crime at issue
2. Whether the suspect poses an immediate threat to the safety of the officer(s) or others and
3. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.



VIII. REPORTING PROCEDURES

A. Officers shall report the circumstances of all resistances or incidents involving use of force to a supervisor and complete the use of force report. Drawing and pointing a firearm at another person is considered a use of force incident and must be reported. The report will include a detailed description of the events leading to the necessity for the use of force; the amount and type of force used; the nature and extent of injuries, if any, and treatment rendered; identity of individuals involved and other pertinent information. Examples of use of force incidents that warrant a report include but are not limited to:

- Any use of force greater than a firm grip/or the un-resisted application of handcuffs.
- Any situation where an officer draws and points a firearm at a person.
- Any situation where an officer discharges a firearm other than in training or for bona fide recreational purposes.
- Any takedown
- Use of OC Spray
- Baton strikes

- Empty hand strikes, punches, and kicks
- Use of the bean bag shotgun
- Use of the 40 mm less lethal launcher
- ECD Deployment
- Use of Flash Bangs
- The use of any hand deployed chemical irritant

B. Non-injury Use of Force

The use of Defensive Tactics frequently achieves the desired results without injury to any parties. However, documentation of such incidents is required. This documentation will normally be sufficiently covered in an incident report prepared as a result of the event. Also, a Use of Force report shall be prepared. This account will include all circumstances that led to the use of a tactic and its actual use.

C. Photographs

1. Photographs of the suspect will be obtained regardless if injury has or has not been sustained.
2. Photographs of the officer will be obtained:
 - a) If the suspect alleges injury.
 - b) If the suspect is injured, to include minor injury.
 - c) Suspect's statement is conflicting with the officer or witness statement.

D. Medical Aid to Injured Parties

When a person is injured because of an officer's use of force, the officer shall notify his immediate supervisor and seek medical treatment for the injured person.

It is the officer's responsibility to summon emergency medical personnel to administer treatment or render first aid when force is applied. If applicable the officer should render first aid until emergency medical personnel arrive. Officers should render first aid consistent with knowledge and training, taking into consideration the seriousness of the injury. Officers administering first-aid shall wear appropriate

personal protective equipment, taking into account their own safety.

E. Use of Force Reporting

~~1.~~ Anytime an incident involves the use of force, officers will contact their on-duty supervisor to advise them force was used. If no on-duty supervisor is available, the officer will contact the next supervisor in his/her chain of command.

2. Officers will complete all mandatory paperwork regarding the incident they are investigating or are involved in, to include tagging in evidence in accordance with policy.

3. The supervisor:

- a. Will respond to the scene.
- b. Will interview the officer(s) and suspect(s)
- c. Will document the officer(s) statement and suspect(s) statement.
- d. Will identify/interview witness(s).
- e. Will document/photograph/video any injury to the officer(s) and/or suspect(s) as the current policy dictates (ADM.05.01 VIII-C)
- f. Will document/photograph/video the scene.
- g. Will notify their immediate supervisor in cases involving injury, complaint of injury, or death of a suspect, to include the discharge of a firearm.
- h. Will complete a Response to Resistance report.
- i. Will attach the officer's incident report to his/her Response to Resistance investigation ensuring the officer's report has a detailed account of the events.
- j. Will forward the Response to Resistance Report

up the chain of command.

4. If the use of force involves a Sergeant

- a. The Sergeants supervisor will complete a thorough review in writing and forward it up the chain of command within three (3) working days.
 - When a supervisor believes there may have been an inappropriate use of force, he/she will provide his/her supervisor with a written explanation as to why the use of force was inappropriate.
 - If a supervisor determines an inappropriate use of force was applied, they will immediately notify the division commander.
 - Time limitations may be extended at the discretion of the Chief or Deputy Chief on a case by case basis.
5. If during the course of a response to resistance review, the investigating supervisor discovers a policy violation not directly related to the actual use of force, he/ she will note the violation in the review however conduct a separate investigation related to the policy violation.

ALL RESPONSE TO RESISTANCE REVIEWS WILL BE CONDUCTED BY TAKING INTO ACCOUNT THE ANALYTIC MODEL SET FOURTH IN GRAHAM V. CONNER. THE REASONABLENESS OF A PARTICULAR USE OF FORCE MUST BE JUDGED FROM THE PERSPECTIVE OF A REASONABLE OFFICER ON THE SCENE, RATHER THAN WITH THE 20/ 20 VISION OF HINDSIGHT.

IX. PARAMETERS OF USE OF LESS-LETHAL FORCE

- A. In circumstances where lethal force is not authorized, officers should assess the incident in order to determine how to best de-escalate and bring the incident under control in a safe manner. Assessment may include: potential for officer or offender injury, degree of aggression by the suspect, number of suspects, possibility of escalation, number of bystanders, and potential for secondary exposure of bystanders.

- B. Police officers are authorized to use objectively reasonable less-lethal force techniques and equipment for resolution of incidents, as follows:
 - a. To protect themselves or another from physical injury;
 - b. To restrain or subdue a resistant individual;
 - c. To bring an unlawful situation safely and effectively under control.
- C. Less-lethal force may be used in situations where the officer reasonably believes that the suspect poses a serious threat of serious bodily harm. Less-lethal force may be used even though the subject does not pose an *immediate* threat of serious bodily harm.
- D. Less-lethal force is not designed as a substitute for lethal force but, rather as an alternative in some instances. Proper use of less-lethal force requires a sufficient amount of time for officers to confirm the circumstances of the incident and verify use of a less-lethal round. Therefore, officers are encouraged but, not compelled, to use less-lethal force rounds where feasible.
- E. Less-lethal force currently consists of the use of equipment and/or techniques to incapacitate individuals without causing death or serious physical injury. However, these measures, when deployed properly, still possess the potential to cause death or serious physical injury.

x. **LESS-LETHAL FORCE WEAPONS AND TECHNIQUES**

Officers shall not use a less-lethal weapon unless qualified in its proficient use as determined by training procedures

A. Defensive Tactics

In order to provide members of this department with information, the training coordinator will schedule periodic training sessions which enable officers to learn and exercise acceptable methods of defensive tactics. Officers may use defensive tactics that they have been trained in and are qualified to use.

B. Police Expandable Baton

1. The department approved expandable baton may be used when an officer believes that the use of the expandable baton is objectively reasonable, taking into account all specific and articulable facts and circumstances available at the time the decision is made to use the baton. For example, if a suspect has escalated to using threatening statements and/or gestures and begins to close the distance on the officer or another person in a threatening manner as if to batter them.
- ~~2.~~ The expandable baton is not designed to be used as a club or bludgeon. Strikes should target areas of the body which may result in compliance by the suspect or allow the officer to gain control.
- ~~3.~~ Strikes to parts of the body (head, neck, spine, groin, or clavicle) capable of inflicting death or serious bodily injury shall be avoided unless justified by the guidelines of the Deadly Force section of this chapter.
4. The expandable baton may be used as a show of force to counter a subject who verbally or physically threatens an officer or other citizen, when the suspect has the opportunity and ability to complete a battery.

C. Oleoresin Capsicum (OC) Spray

1. OC Spray (pepper spray) plays a distinct and viable role in the continuum of force options and gives the individual officer an alternative to hard empty hand techniques and the use of an impact weapon, expandable baton.
2. Use of OC Spray
 - a. OC Spray may be used when an officer believes that the use of the OC Spray is objectively reasonable, taking into account all specific and articulable facts and circumstances available at the time the decision is made to use the OC. The OC spray may be used on a suspect who is non-cooperative and is resisting the efforts to control him by, but not necessarily limited to, the following actions:
 - Suspect not responsive to directions.

- verbal resistance or body posture
- pulling/moving running away
- Aggressive movements and an escalation of resistive force.

- b. The OC spray may be used if a suspect has escalated to using threatening statements and begins to close distance on the officer or another person in a manner as if to batter them.
- c. The use of OC spray is target specific and should result in the officer's ability to gain control of the suspect.
- d. The target area will consist of the face, specifically the eyes.

3. Decontamination

- a. Decontamination begins after the suspect has been restrained with handcuffs or by other means and the suspect's resistance has ceased.
- b. Decontamination should begin in a reasonable time frame and officer safety concerns should be taken into consideration.
- c. Expose suspect to fresh air and flush affected area with water.
- d. Call medical personnel (EMS) to perform a cursory check of the suspect, to remove any contact lenses if necessary and to continue flushing the suspect with water.
- e. Once the suspect has been transported to the detention facility, the on duty detention facility personnel shall be notified that the suspect has been sprayed with OC.
- f. Under no circumstances will any creams, salves, or oils be applied to the affected area.

4. Reporting

- a. As with any use of force or application of force, a written report will be submitted detailing the use of the OC spray, decontamination procedures and the events leading to the use of the OC spray.
- b. Anytime the OC spray is used, the approving supervisor will be responsible for ensuring that a copy of the report is forwarded up the chain of command.

D. 12-gauge Bean-Bag

1. Bean-bags are considered to be extended range impact weapons that allow officers to deliver a similar amount of force comparable to batons.
2. The bean-bag may be used when other less - lethal force options have been ineffective or when it reasonably appears that such options will be ineffective in subduing the subject. Examples of situations in which the bean-bag may be used include, but are not limited to, the following:
 - Armed subjects.
 - Warrant service where the subject is perceived to be violent.
 - Violent persons under the influence of drugs and/or alcohol.
 - Persons expressing the intent and having the means to commit suicide.
 - When deemed to be a reasonable alternative to lesser force options that will likely be ineffective or greater force options that may be inappropriate given objective circumstances.
3. Where possible, the bean-bag operator should consult with a supervisor prior to the use.
4. The bean-bag should not be pointed at any individual unless the officer involved reasonably believes it will be necessary to use the device.
5. The bean-bag shall not be used:
 - a. When the operator cannot, for safety or other reasons,

- approach the subject within effective range of the device;
 - b. When it is reasonable to believe that incapacitation of the subject may result in serious injury or death.
6. In less-lethal force situations, when possible, officers should avoid using the bean-bag on:
- a. Persons in wheelchairs or in control of a vehicle;
 - b. Pregnant women;
 - c. People with known heart problems;
 - d. People with apparent debilitating illness or the elderly;
 - e. Children or those under 80 pounds;
 - f. Individuals with known neuromuscular disorders such as muscular sclerosis, muscular dystrophy.
7. Only officers who have successfully completed the agency's approved course of instruction on the bean-bag are authorized to use it in tactical situations.
8. Officers of this agency shall receive refresher training in use of the bean-bag on an annual basis during firearms instruction.

****UNDER NO CIRCUMSTANCES DOES A BEAN-BAG ROUND GO INTO ANYTHING OTHER THAN A 12 GAUGE SHOTGUN. ONCE A SHOTGUN HAS BEEN DESIGNATED AS A BEAN BAG SHOTGUN NO OTHER MUNITIONS, OTHER THAN A BEAN BAG ROUND, WILL BE PLACED INTO IT. BEAN BAG SHOTGUNS WILL BE MARKED WITH SPECIAL MARKINGS DESIGNATING THEM AS A BEAN BAG SHOTGUN.**

- G.** Taser X-26/X-26P Electronic Control Device (ECD) deployment policy
- 1.** It is the policy of this agency to use objectively reasonable force to control or overcome the resistance put forth by individuals who are violent, exhibiting threatening or potentially violent behavior, or physically resisting arrest or detention. ECDs may be used by authorized and trained personnel in accordance with this use-of-force policy and additional guidelines established herein.
 - 2.** In order to determine which technique or weapon will safely resolve the incident and bring it under control safely, officers

should assess the situations where force is warranted. Officer should only use that force which is objectively reasonable to affect lawful objectives.

3. This policy is intended to provide general guidelines for the Electronic Control Devices (ECD), commonly referred to as a Taser. Hereinafter, Electronic Control Devices shall be referred to as ECD and TASER shall refer to the X-26/X-26P TASER, manufactured by TASER international.
4. The ECD may be used when an officer believes that the use of the ECD is objectively reasonable, taking into account all specific and articulable facts and circumstances available at the time the decision is made to use the ECD. For example, if a suspect has escalated to using threatening statements and/or gestures and begins to close the distance on the officer or another person in a threatening manner as if to batter them.
5. A departmental use of force review will be held following the deployment of an ECD. Each application of the ECD will be evaluated as an individual and separate use of force incident.
6. The ECD is an additional law enforcement tool and is not intended to replace firearms or replace other equipment, tools, or techniques, too include OC Spray, Defensive Tactics, and Baton. The ECD should only be used when it is appropriate for the situation. The utilization of the ECD is considered a use of force and as such must comply with the departmental use of force guidelines. Any use of an ECD that is deemed unreasonable shall subject the officer to disciplinary action.
7. Officers will only use the ECD after receiving training and certification in its proper use, and in accordance to departmental and PERF guidelines.
8. The ECD will be carried fully armed with an air cartridge installed and in the "safe" position in preparation for immediate use when authorized.
9. If practical, a warning should be given to a person prior to deploying the ECD to inform other involved personnel that a non-lethal weapon is being deployed, i.e. "Taser, Taser, Taser"

10. No modifications or repairs shall be performed on the device unless authorized by the department in writing.
11. The use of a ECD is authorized:
 - a) At the discretion of the officer where the actions of a suspect places the suspect, citizen, and/ or officers at risk of injury.
 1. In all instances, the officer will only use the reasonable number or cycles/applications of the ECD necessary to affect the arrest of a suspect or to control the situation.
 2. Officers should use an ECD for one standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are necessary. Personnel should consider that exposure to the ECD for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. Officers should be aware that an energized subject may not be able to respond to commands during or immediately following exposure. Any subsequent applications should be independently justifiable, and the risks should be weighed against other force options.
 3. If the subject does not respond to the ECD deployment in the anticipated control manner based on training and experience, personnel should consider transitioning to alternative resistance control measures.
 - b) To stop a suspect who is resisting custody by making aggressive movements, and/or escalating resistive force.
 - Fleeing should not be the sole justification for using an ECD against a subject. Officers should consider the severity of the offense, the subject's threat level to others, and the risk of serious injury to the subject before deciding to use an ECD on a fleeing subject.
 - c) To stop potentially dangerous behavior.
 - d) To protect a person or officer from injury or death.
 - e) To protect a suspect from injuring him/herself.

- f)** To maintain order within a facility.
 - g)** In situations that require gaining/maintaining control of a subject or situation.
 - h)** Civil disturbances such as fights or riots.
 - i)** Armed suicidal persons.
 - j)** Mentally ill or emotionally disturbed persons.
 - Officers shall be aware of the general concerns raised when an ECD is used on a known mentally ill or emotionally disturbed person. Officers are not prohibited from using an ECD on such persons, but use is limited to those exceptional circumstances where the potential benefit of using the device (i.e., injury reduction) reasonably outweighs the risks and concerns.
 - k)** Attempting to evade or flight from custody when an officer has a reasonable suspicion to believe a subject has committed a felony.
 - l)** In situations where a supervisor deems the use of the ECD to safely resolve a situation/incident.
- 12.** Nothing in this policy should limit the officer to the use of the ECD in place of other force options.
- 13.** The use of the ECD is a highly effective option to control a situation. However, no officer should place him/herself in unnecessary danger. When practical, the ECD should be used with lethal cover from another officer.
- 14.** When a suspect is armed with an ECD and attacks or threatens to attack a police officer, the officer may defend him- or herself to avoid becoming incapacitated and risking the possibility that the suspect could gain control of the officer's firearm. When possible, officers should attempt to place intermediate barriers between themselves and the ECD, and seek cover, as well as request back-up officers to mitigate the danger. However, if multiple officers are present, a subject's attack with an ECD against one officer should not in and of itself cause deadly-force response by other officers.

~~15.~~ Due to elevated risk factors for injury, the ECD should not generally be used against the below listed individuals. Officers should evaluate whether the use of the ECD is reasonable, based upon all facts and circumstances, including the subject's age and physical condition. In some cases, other control techniques may be more appropriate as determined by the subject's threat to the officer or to others.

- Obviously pregnant females.
- Persons with apparent debilitating illnesses or the elderly.
- Children or persons under eighty (80) pounds.

16. The use of an ECD is not authorized:

- a) As a punishment or out of anger.
- b) On a handcuffed person(s) unless they are actively resisting, exhibiting active aggression, or attempting to harm themselves or others.
- c) When a suspect is in a location (such as in a large amount of water or elevated structure) where a fall may cause substantial injury or death, unless deadly force would otherwise be authorized. An example of this would be a suspect on a balcony, riding a motorcycle/bicycle/moving vehicle or operating machinery, or standing in or near a swimming pool or similar body of water.

17. Extreme caution should be used upon deployment of the ECD in areas where there is potential for fire hazard such as flammable vapors, gases, or electric spark hazard such as those encountered at filling stations and clandestine drug labs. Note: Although some Oleoresin Capsicum (OC) sprays may not be flammable, the propellant components of the OC may be flammable. The officer will follow the guidelines as established in departmental training.

18. In preparation for firing, the ECD shall be pointed in a safe direction, taken off of safe mode, and then aimed at the suspect. Center mass of the suspect's back should be the

primary target where reasonably possible. Below center mass of the suspect's chest or any place on the subject's arms or legs are the secondary targets. The head and face should not be targeted unless the appropriate level of force can be justified.

19. The ECD should be left in the fire position until the suspect is safely in custody and under control. This allows for another cycle to be applied to the suspect in the event the officer reasonably believes that an additional cycle is necessary taking into account all the facts and circumstances.
20. After deployment of the ECD and the suspect is safely in custody and under control, the officer should evaluate the situation and assess the suspect prior to TASER probe removal.
 - a) Once in custody, officers shall advise medical personnel and or emergency room staff that the person was subjected to the ECD and relate the approximate time the action occurred. If the probes penetrate the skin, the puncture sites shall be brought to the attention of on scene medical personnel and or emergency room staff.
 - b) If Taser deployment result in a subject being transported to a medical facility, the officers shall obtain a medical clearance from the emergency room physician before transporting a subject shot by an ECD to a detention facility. While on scene, the subject must be evaluated by EMS personnel and discussed with paramedics to determine if release to the officer is medically appropriate.
 - c) Officers must be aware that one easily overlooked aspect of injury in deploying an ECD to a subject with a TASER is that of falling down from a standing position. A thorough physical examination with particular emphasis on secondary injuries should be performed by paramedics.
 - d) Only Medical personnel will be required to remove Taser probes.
 - e) Since the probes will most likely have blood on them (biohazard) the officers should wear protective gloves when handling. The wires shall be wound around the cartridge. The probes shall be carefully placed back into

the spent cartridge by inverting the probes into the portals they were originally deployed from. Tape shall then be placed over the portals to secure the probes in the cartridge. Once this is done the cartridge will be tagged into evidence.

- f) The officer should inspect the probes after removal to ensure that the entire probe and barb has been removed. In the event that a probe or barb has broken off, the suspect should be provided with appropriate medical attention to facilitate the removal of the object.
- g) Anti-Felon identification (AFID) tags that are spread following the deployment of an air cartridge need only be collected if reasonably necessary and there is a question of fired a cartridge.

~~21.~~ Because the application of the ECD in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

When three or more officers are present at the scene, officers should weigh the circumstances of using a drive stun because the disparity of force is in the officer's favor.

- 22. In all instances where an ECD is used on a suspect, the officer will:
 - a) Complete a Supervisory Taser Use Report. A copy of this report should be placed in the TASER instructor's box. The on duty supervisor shall insure a copy of this report has also been forwarded to the TASER International for its national use of force database.
 - b) Officers shall specifically articulate the rationale in their use of force report for any instances in which:
 - An ECD is deployed more than three times.
 - More than one ECD is used against a suspect in any given incident.

- c) Ensure that photographs are taken of the probe impact sites and any other related injuries, both before (if practical under the circumstances) and after removal of the probes. If the drive stun technique is used, photograph any applicable marks.
 - In some instances, photographs may not be taken, such as in some cases of juveniles or when the probes impacted genitals, female's breasts, etc. It is important to preserve evidence of ECD use; however, it is also important to not violate any medical, HIPAA, or privacy statutes or other legal restrictions.
- d) Turn over ECD to the TASER Instructor for downloading of event data to a designated computer as soon as possible following the use of the ECD. The TASER instructor will also issue a replacement cartridge to the officer.
 - The ECD instructor will complete a supplemental report in the departments RMS explaining how the ECD data report was generated and attached the ECD data report to the RMS case folder.

23. Upon completion of training, each officer will be issued one (1) ECD, one (1) extended Digital Power Magazine (XDPM), one (1) holster designated for weak side carry, and two (2) cartridges. Each officer will sign for equipment acknowledging receipt. If any problems occur with any of the issued equipment, notifications should be made to the officer's immediate supervisor and/or TASER Instructor.

All uniformed patrol officers are required to carry their ECD and necessary equipment needed for an ECD's use. CID personnel will be at the discretion of the CID supervisor.

- a) A weekly—"spark test" will be conducted by the officer to ensure that the ECD is functioning properly and to ensure that the XDPM has battery power above twenty percent (20 %). The spark test will be performed in a safe manner consistent with training. When doing a spark test, the test should run for the standard full five (5) second cycle every time instead of a one or two second cycle. The primary reasons are a weak battery may not be found when doing a short spark test and the diagnostics take as long as 2-3 seconds to complete.

- When the XDPM reaches twenty percent (20%) battery life, the officer shall notify the TASER Instructor so a replacement can be obtained. The XDPM will then be recycled or used for training purposes.
 - b) The ECD is designated for weak side carry. It is the policy of this agency that the ECD be carried on the side of the body opposite the firearm. This is to help prevent the accidental drawing and/or firing of an officer's sidearm.
 - c) The spare air cartridge will be carried in a manner consistent with training.
- 24.** Misuse of the ECD by an officer will be reported to the immediate supervisor of that officer for disciplinary action. Misuse consists of, but is not limited to; unjustified deployment, excessive "spark tests", and the use of the ECD for activities not associated with the use of force situations and/or law enforcement.
- 25.** Officers may carry the ECD off duty following the same guidelines established in this departments off duty carry of a service firearm policy (ADM.06.01), to include the storage and transportation of the device.
- Officers will ensure that the department issued ECD is secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.
- 26.** Certification for usage of the ECD shall be for a period of one (1) year. Annually, the officer will re-certify in the use of the ECD. This training will consist of physical competency and device retention, changes in the agency policy, technology changes and reviews of local and national trends in ECD usage. There will also be a practical testing where each officer will be required to simulate firing at least two (2) training cartridges in commonly encountered scenarios.
- a) It is the policy of this agency that each officer certifying on the use of the ECD does not have to submit to an exposure in order to feel the effects of the ECD.
 - b) The officer shall follow all other guidelines in reference to

the use of maintenance of the ECD as outlined in training.

27. Auditing

- a) All agency ECDs will be subjected to periodic and random data downloading. The data obtained will be reconciled with existing use-of-force reports to ensure accountability between the cycles recorded, and those documented in such reports and occurring in pre-shift testing.
- b) The ECD instructor will collect and analyze information to identify ECD trends and include his/her findings in the monthly Comp Stat notes. Information collected will include the following:

- Date, time, location of incident
- The use of display, laser painting and or arcing, and whether those tactics deterred a subject and gained compliance
- Identifying and descriptive information and investigative statements of the subject (including membership in an at-risk population), all personnel firing ECD, and all witnesses.
- Number of ECD activations and duration
- Level of aggression
- Clothing
- Any other information that the ECD instructor feels is relevant

Much of this information will be documented on this departments "Response to Resistance" form or the Taser Use Form which will be completed after every ECD deployment.

c) Officer Responsibility

- Officers will notify their supervisor any time they paint an individual with the ECD laser or arc the ECD as a way of gaining compliance. All facts and circumstances

justifying the use should be explained.

d) Supervisor Responsibility

- Supervisors will notify the ECD instructor or his/her designee any time they become aware of an officer painting an individual with the ECD laser or arcing the ECD as a way of gaining compliance.

xi. DEADLY FORCE

A. Parameters for Use of Deadly Force

1. After weighing the respective interests of law enforcement and the suspect, the United States Supreme Court, in a case entitled *Tennessee v. Garner*, held that the Fourth Amendment authorized a police officer's use of deadly force in the following circumstance:
 - a. Where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others, it is not constitutionally unreasonable to prevent escape by using deadly force. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.
2. The Supreme Court, in *Garner*, also prohibited the use of deadly force in the following circumstance:
 - a. The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. It is no doubt unfortunate when a suspect who is in sight escapes, but the fact that the police arrive a little late or are slower afoot does not always justify killing the suspect. A police officer may

not seize an unarmed, non-dangerous suspect by shooting him dead.

B. Authorized Use of Deadly Force

1. Deadly force may be used only when the officer objectively reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily injury.
2. Prevent the escape of a felony suspect who the officer has probable cause to believe that the suspect poses an immediate threat of serious physical harm to the officers or others if allowed to escape;
3. Where feasible, some warning should be given prior to engaging in the use of lethal force.
4. Officers should give appropriate medical assistance to injured suspects in circumstances where the officer's safety is no longer in jeopardy.
5. In some instances, it may be appropriate for an officer to utilize a weapon of opportunity to defend himself / herself or others. If an officer becomes disarmed (loss of less-lethal tool or approved firearm), or if an officer cannot use an approved weapon because of injury or for other legitimate reasons, or if a weapon of opportunity is the most reasonable response, an officer is authorized to use a weapon of opportunity to defend himself / herself or another as long as the weapon used is an objectively reasonable use of force, given the threat posed by the suspect / subject.
6. An officer may use deadly force:

When the suspect is intent on immediately endangering human life or immediately inflicting serious bodily injury unless apprehended without delay. The officer must reasonably believe that the suspect is armed or has the means to inflict death or serious bodily injury.

a. Intent

- b. Ability
- c. Means
- d. Opportunity

7. Prohibited uses of deadly force:

- a. Officers shall not unreasonably or unnecessarily endanger themselves or the public in applying deadly force pursuant to this policy or state law.
- b. An officer shall not rely solely on third party reports as a basis for use of Deadly Force, without firsthand knowledge of an alleged offense.
- c. An officer shall not use deadly force in situations that would not be in accordance with New Mexico State Statutes.
- d. In an attempt to apprehend fleeing felons or escapees whom are not placing the officer or another person in immediate danger of death or immediate serious bodily injury.
- e. Warning shots are prohibited.

- 8. All officers shall be provided with and be familiar with all provisions of the New Mexico State Statutes and this directive governing the legal use of Deadly Force.

C. In the event a Los Lunas Police officer is involved in a deadly force incident:

Officers will evaluate injuries and render aid while attempting to avoid the destruction or contamination of evidence.

- 1. Secure the scene and implement the seven critical tasks as appropriate.
- 2. Identify any witnesses at the scene and secure them separately in a police vehicle or with another officer to maintain credibility.
- 3. Start a crime scene log.
- 4. Contact the Patrol Lieutenant and if he or she is not available, contact another division commander.
- 5. Contact New Mexico State Police to conduct the

- investigation.
6. Supervisors will maintain an emergency contact list in the event an officer is involved in a deadly force situation. The person contacted can come to the scene and remain with the officer.
 - a. The officer involved is prohibited from discussing the incident with the person contacted. The emergency contact is there for support.

xii. ADMINISTRATIVE LEAVE

- A. Immediately following the principal officer's involvement in a deadly force incident, the officer will be automatically placed on administrative leave pending a review by the Chief of Police on the next normal work day. Unless the administrative leave status is changed to a suspension status by the Chief of Police, the officer shall remain in an administrative leave status for three days or until such time as the matter is resolved legally and administratively at the discretion of the Chief of Police or his designee.
 1. Involved officers in the deadly force incident will be offered three days of paid administrative leave but do not have to take it.
- B. Assignment to administrative leave is non-disciplinary with no loss of pay or benefits. This form of leave is designed to:
 1. Address the personal and emotional needs of the officer involved in the use of deadly force and,
 2. Insure the community that the facts surrounding the case are fully and professionally investigated.
- C. An officer on administrative leave shall insure his/her availability to investigators until the investigation has been concluded.
- D. Officers on administrative leave are authorized to carry an approved firearm, unless otherwise directed by the Chief of Police. Officers shall not work off-duty police related jobs and should not enforce laws and make arrests except in emergency situations.
- E. An officer whose action results in a deadly force incident will be

required to counsel with the Department appointed counselor.

- F. The Department will make available and reserve the right to require counseling for all officers who had involvement in a deadly force incident.

xiii. INCIDENTS OF FORCE REVIEW

- A. If a use of force reasonably indicates a possible violation of LLPD policy or other inappropriate conduct, the immediate or any other supervisor will refer the matter directly to the Office of the Chief for review.
- B. Referrals to the Office of the Chief will be automatic and take place immediately anytime there is a firearm discharge (except at the firing range or in the event of putting down an animal.)
- C. The Office of the Chief will be responsible for ensuring that all use of force data from all reports are regularly and accurately compiled, analyzed and reviewed.
- D. The Administrative Staff will
 - 1. Analyze use of force data biannually, cumulative basis to detect trends;
 - 2. Have compiled in writing and review use of force incident by officer and type of force used and
 - 3. Review the data for the purpose of identifying and acting upon their implications for policy and training designed to ensure that officers are using only appropriate types and amounts of force.

xiv. TRAINING

- A. Annual training will be conducted to instruct officers in the Use-Of-Force policy. This instruction will be documented.
- B. Copies of this policy will be issued to each officer, before being authorized to carry a weapon, and will be updated as needed. This issuance and instruction will be documented.